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MEMORANDUM

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Director
Utilities Division

Arizona Corporation Commission

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AZ CORP COMMISSION
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DATE: March 1, 2011

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[Signature]

RE: IN THE MATTER OF THE APPLICATION OF GRASSHOPPER GROUP, LLC
FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND NECESSITY
TO PROVIDE RESOLD LONG DISTANCE TELECOMMUNICATIONS
SERVICES (DOCKET NO. T-20710A-09-0530)

Attached is the Staff Report for the above referenced Application. The Applicant is applying for approval of its petition for a Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Resold Long Distance Telecommunications Services

Staff is recommending approval of the CC&N with conditions.

SMO:PJG:tdp

Originator: Pamela J. Genung

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**Application for a Certificate of Convenience and Necessity to Provide Resold
Interexchange Service and for Determination that Services of the Applicant are
Competitive**

Applicant: Grasshopper Group, LLC
Docket No.: T-20710A-09-0530

On November 17, 2009, Grasshopper Group, LLC ("Grasshopper Group", "Applicant" or "Company") filed an Application for a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold interexchange long distance services within the State of Arizona. On December 1, 2009, Staff issued its First Set of Data Requests to Grasshopper Group. On December 30, 2009, Regulatory Counsel, Michael P. Donahue, on behalf of Grasshopper Group, provided responses to Staff's First Set of Data Requests. A protective agreement, as requested by the Applicant, was also signed by Mr. Donahue and Staff on December 30, 2009. On October 7, 2010, the Applicant provided its financial information to Staff.

Staff's review of this Application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate interexchange long distance telecommunications services. Staff's review considers the Applicant's technical and financial capabilities, and whether the Applicant's proposed rates will be just and reasonable.

REVIEW OF APPLICANT INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- ☒ **The necessary information has been filed to process this Application, and the Applicant has authority to transact business in the State of Arizona.**
- ☒ **The Applicant has published legal notice of the application in all counties where service will be provided.** On December 30, 2009, Applicant filed an Affidavit of Publication in the counties where the authority to provide resold long distance telecommunications services is requested.

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- ☒ **The Applicant is not currently providing service in Arizona.**

☐ **The Applicant is not currently providing intrastate service in any other states/jurisdictions.**

☒ **The Applicant is a switchless reseller.**

☒ **In the event the Applicant experiences financial difficulty, end users can access other interexchange service providers.**

The Applicant indicated that it is currently authorized to provide resold interexchange long distance services in eleven additional states, and is presently providing intrastate long distance services in those states including, Colorado, Georgia, Michigan, New Jersey, New York, North Carolina, Ohio, Texas, Utah, Virginia, and Washington. Grasshopper Group also indicated that it has Applications pending or expects to file Applications in the near future for authority in California, Connecticut, Florida, Illinois, and Maryland. Staff has contacted the eleven state Public Utility Commissions to verify that Grasshopper Group is certificated or registered to provide resold long distance telecommunications services in those states. Staff also inquired whether there were any consumer complaints filed against Grasshopper Group. The information that Staff has obtained indicates that there have been no consumer complaints filed against Grasshopper Group.

A search of the Federal Communications Commission website found that there have been no complaints filed against Grasshopper Group. The Consumer Services Section of the Utilities Division reports no complaints, inquiries, or opinions filed within Arizona from January 1, 2006 through October 15, 2010. The Corporations Division also reports that the Company is in Good Standing.

Grasshopper Group's management team currently consists of four employees with a combination of over forty years experience in the telecommunications industry. The Applicant has indicated that it provides inbound 800/toll-free and long distance service plans to business customers. Based on this information, Staff has determined that the Applicant has sufficient technical capabilities to provide interexchange resold long distance telecommunications services in Arizona.

REVIEW OF FINANCIAL INFORMATION

☐ **The Applicant is required to have a performance bond to provide resold interexchange service in the State of Arizona.**

The Applicant provided audited financial statements for the years ending December 31, 2008 and December 31, 2009. The 2009 financial statements list total assets of \$3,619,798; total equity of negative \$1,216,472; and net income of negative \$818,040. The 2008 financial

statements list total assets of \$2,844,884; total equity of negative \$1,236,970 and net income of negative \$1,053,952. The Applicant also provided notes related to the financial statements.

The Applicant stated in its proposed Arizona C.C. No. 1 Tariff, at Section 2.6, entitled Deposits, on Original Sheet No. 12 that the Company does not require a deposit from its customers.

The Commission's current bond or irrevocable sight draft Letter of Credit requirement is \$10,000 for resold long distance (for those resellers who collect advances, prepayments, deposits, or are offering prepaid calling services).

If this Applicant experiences financial difficulty, there should be minimal impact on the customers of this Applicant because there are many companies that provide resold interexchange telecommunications service or the customers may choose a facilities-based provider.

The Applicant indicated that none of its officers, directors or partners has been involved in any civil or criminal investigations, formal or informal complaints. The Applicant also indicated that none of its officers, directors or partners has been convicted of any criminal acts in the past ten (10) years.

REVIEW OF PROPOSED TARIFF AND FAIR VALUE DETERMINATION

- ☒ **The Applicant has filed a proposed tariff with the Commission.**
- ☒ **The Applicant has filed sufficient information with the Commission to make a fair value determination.**

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several long distance carriers operating in Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis.

COMPETITIVE SERVICES' RATES AND CHARGES

Competitive Services

The Applicant is a reseller of services it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate interexchange market by restricting output or raising market prices. In addition, the entities from which the Applicant buys bulk services are technically and financially capable of providing alternative services at comparable rates, terms, and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with Arizona Administrative Code ("A.A.C.") R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109 (A) provides that minimum rates for the Applicant's competitive services must not be below the Applicant's total service long run incremental costs of providing the services. The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Applicant's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Application for a Certificate of Convenience and Necessity to offer intrastate interexchange long distance services as a reseller and the Applicant's petition to classify its intrastate interexchange services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to provide resold intrastate interexchange long distance services, Staff recommends approval of the Application.

In addition, Staff further recommends that:

1. The Applicant should be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. The Applicant should be ordered to maintain its accounts and records as required by the Commission;
3. The Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. The Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. The Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;
6. The Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;
7. The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;
8. The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name, address, or telephone number;
9. The Applicant's intrastate interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;
10. The maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
11. In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate;
12. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the Applicant and has determined that its fair value rate base is zero. Accordingly, the Applicant's fair value rate base is too small to be useful in a fair value analysis. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to several long distance carriers operating in

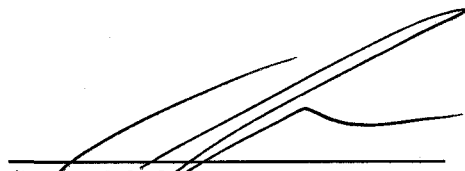
Arizona and comparable to the rates the Applicant charges in other jurisdictions. Therefore, while Staff considered the fair value rate base information submitted by the Applicant, the fair value rate base information provided should not be given substantial weight in this analysis;

13. If at some future date, the Applicant wants to collect advances, deposits and/or prepayments from its resold interexchange customers, Staff recommends that the Applicant be required to file an Application with the Commission for approval. Such Application must reference the decision in this docket and must explain the Applicant's plans for procuring a performance bond or irrevocable sight draft Letter of Credit;
14. In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.

Staff recommends that the CC&N granted to the Applicant be considered Null and Void after due process if the Applicant fails to meet the condition stated below:

1. The Applicant shall file conforming tariffs within 365 days from the date of an Order in this matter or 30 days prior to providing service, which ever comes first, and in accordance with the Decision.

This Application may be approved without a hearing pursuant to A.R.S. § 40-282.



Steven M. Ofea
Director
Utilities Division

Date: 3-1-11

Originator: Pamela J. Genung

SERVICE LIST FOR: Grasshopper Group, LLC
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Dominic Schiavone
Vice President of Operations
Grasshopper Group, LLC
197 1st Avenue, Suite 200
Needham, Massachusetts 02494

Michael P. Donahue, Esq.
Helein & Marashlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, Virginia 22102